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15 Attorneys for Plaintiff

16 UNITED STATES DISTRICT COURT  
17 CENTRAL DISTRICT OF CALIFORNIA  
18 SOUTHERN DIVISION

19 InfoSpan, Inc.,

20 Plaintiff,

21 v.

22 Emirates NBD Bank PJSC,

23 Defendant.

Case No. 8:11-CV-01062 JVS (ANx)

**DECLARATION OF DAVID ZIFKIN  
ISO PLAINTIFF'S OPPOSITION TO  
DEFENDANT'S DAUBERT  
MOTIONS (NOS. 1-3), MOTIONS IN  
LIMINE (NOS. 1-4), AND RULE 37  
MOTION**

Date: October 26, 2015

Time: 11:00 am

Courtroom: 10C

1 I, David L. Zifkin, declare as follows:

2 1. I am a partner with the law firm of Boies, Schiller & Flexner LLP,  
3 counsel to Plaintiff InfoSpan, Inc. ("Plaintiff" or "InfoSpan") in this action. I make  
4 this declaration in support of InfoSpan's Oppositions to Defendant Emirates NBD  
5 Bank PJSC ("Defendant" or "the Bank") *Daubert* Motions Nos. 1-3, Motions *in*  
6 *Limine* Nos. 1-4, and Rule 37 Motion. I have personal knowledge of the facts set  
7 forth herein, or am informed and believe them to be true. If called as a witness, I  
8 could and would competently testify to the matters stated herein.

9 2. Attached hereto as Exhibit 1 is a true and correct copy of the initial  
10 report of Dr. Ariel Pakes, served on December 20, 2013.

11 3. Attached hereto as Exhibit 2 is a true and correct copy of the reply  
12 report of Dr. Ariel Pakes, served on December 29, 2014.

13 4. Attached hereto as Exhibit 3 is a true and correct copy of excerpts from  
14 the transcript of the deposition of Dr. Ariel Pakes, which occurred on January 22,  
15 2015.

16 5. Attached hereto as Exhibit 4 is a true and correct copy of the initial  
17 report of Dr. Benjamin Goldberg, served on December 20, 2013.

18 6. Attached hereto as Exhibit 5 is a true and correct copy of the reply  
19 report of Dr. Benjamin Goldberg, served on December 29, 2014.

20 7. Attached hereto as Exhibit 6 is a true and correct copy of the transcript  
21 of the deposition of Dr. Benjamin Goldberg, which occurred on January 9, 2015.

22 8. Attached hereto as Exhibit 7 is a true and correct copy of the initial  
23 report of Dr. Manuel Orozco, served on December 20, 2013.

24 9. Attached hereto as Exhibit 8 is a true and correct copy of the reply  
25 report of Dr. Manuel Orozco, served on December 29, 2014.

26 10. Attached hereto as Exhibit 9 is a true and correct copy of the rebuttal  
27 report of Jeffrey Kinrich, served on February 27, 2014.

28 11. Attached hereto as Exhibit 10 is a true and correct copy of excerpts of

1 the transcript from the individual and 30(b)(6) deposition of Christin Solomon  
2 Walter, which occurred on December 11, 2014.

3 12. Attached hereto as Exhibit 11 is a true and correct copy of excerpts of  
4 the transcript from the individual and 30(b)(6) deposition of Dan Johnson, which  
5 occurred on November 20, 2014.

6 13. Attached hereto as Exhibit 12 is a true and correct copy of excerpts of  
7 the transcript from the deposition of Farooq Bajwa, which occurred on January 21,  
8 2014.

9 14. Attached hereto as Exhibit 13 is a true and correct copy of excerpts of  
10 the transcript from the deposition of Laurence Scudder, which occurred on January  
11 22, 2014.

12 15. Attached hereto as Exhibit 14 is a true and correct copy of excerpts of  
13 the transcript from the deposition of Umair Hussain, which occurred on January 23,  
14 2014.

15 16. Attached hereto as Exhibit 15 is a true and correct copy of excerpts of  
16 the transcript from the deposition of Abdulhakim Binherz, which occurred on January  
17 24, 2014.

18 17. Attached hereto as Exhibit 16 is a true and correct copy of excerpts of  
19 the transcript from the deposition of Suvo Sarkar, which occurred on December 09,  
20 2014.

21 18. Attached hereto as Exhibit 17 is a true and correct copy of InfoSpan's  
22 Initial Disclosures.

23 19. Attached hereto as Exhibit 18 is a true and correct copy of Emirates  
24 Bank's 30(b)(6) Deposition Notice to InfoSpan, served on October 27, 2014.

25 20. Attached hereto as Exhibit 19 is a true and correct copy of InfoSpan's  
26 Third Supplemental Responses and Objections to Emirates Bank's Interrogatory No.  
27 1, which includes InfoSpan's Original response and First and Second Supplemental  
28 Responses, as well.

1           21. Attached hereto as Exhibit 20 is a true and correct copy of InfoSpan's  
2 Responses and Objections to Emirates Bank's Third Set of Interrogatories (including  
3 the Response to Interrogatory No. 11).

4           22. Attached hereto as Exhibit 21 is a true and correct copy of InfoSpan's  
5 First Supplemental Responses and Objections to Emirates Bank's Third Set of  
6 Interrogatories (including the First Supplemental Response to Interrogatory No. 15).

7           23. Attached hereto as Exhibit 22 is a true and correct copy of InfoSpan's  
8 Responses to Emirates Bank's Interrogatories That Were Converted 30(b)(6)  
9 Deposition Topics.

10          24. Attached hereto as Exhibit 23 is a true and correct copy of a document  
11 that InfoSpan produced in this litigation that begins with Bates number  
12 INSPN00000198.

13          25. Attached hereto as Exhibit 24 is a true and correct copy of certain  
14 source code that InfoSpan produced in this case bearing Bates numbers INSPN-  
15 SC\_000026-32.

16          26. Attached hereto as Exhibit 25 is a true and correct copy of certain  
17 source code that InfoSpan produced in this case bearing Bates numbers INSPN-  
18 SC\_000060-62.

19          27. Attached hereto as Exhibit 26 is a true and correct copy of certain  
20 source code that InfoSpan produced in this case bearing Bates numbers INSPN-  
21 SC\_000074-78.

22          28. Attached hereto as Exhibit 27 is a true and correct copy of certain  
23 source code that InfoSpan produced in this case bearing Bates numbers INSPN-  
24 SC\_000243-246.

25          29. Attached hereto as Exhibit 28 is a true and correct copy of certain  
26 source code that InfoSpan produced in this case bearing Bates numbers INSPN-  
27 SC\_000260-261.

28          30. Attached hereto as Exhibit 29 is a true and correct copy of certain

1 source code that Emirates Bank produced in this case bearing Bates numbers  
2 EMSRC000138-139.

3 31. Attached hereto as Exhibit 30 is a true and correct copy of certain  
4 source code that Emirates Bank produced in this case bearing Bates numbers  
5 EMSRC000140-143.

6 32. Attached hereto as Exhibit 31 is a true and correct copy of certain  
7 source code that Emirates Bank produced in this case bearing Bates numbers  
8 EMSRC000150 -151.

9 33. Attached hereto as Exhibit 32 is a true and correct copy of certain  
10 source code that Emirates Bank produced in this case bearing Bates numbers  
11 EMSRC000155-157.

12 34. Attached hereto as Exhibit 33 is a true and correct copy of certain  
13 source code that Emirates Bank produced in this case bearing Bates numbers  
14 EMSRC000159-165.

15 35. Attached hereto as Exhibit 34 is a true and correct copy of certain  
16 source code that Emirates Bank produced in this case bearing Bates numbers  
17 EMSRC000170-172.

18 36. Attached hereto as Exhibit 35 is a true and correct copy of certain  
19 source code that Emirates Bank produced in this case bearing Bates numbers  
20 EMSRC000177.

21 37. Attached hereto as Exhibit 36 is a true and correct copy of certain  
22 source code that Emirates Bank produced in this case bearing Bates numbers  
23 EMSRC000179-191.

24 38. Attached hereto as Exhibit 37 is a true and correct copy of a document  
25 that Emirates Bank produced in this litigation that begins with Bates number  
26 EM009821.

27 39. Attached hereto as Exhibit 38 is a true and correct copy of a document  
28 that InfoSpan produced in this litigation that begins with Bates number LS0043486.

1           40.     Attached hereto as Exhibit 39 is a true and correct copy of a document  
2 that InfoSpan produced in this litigation that begins with Bates number LS0043503.

3           41.     Attached hereto as Exhibit 40 is a true and correct copy of a document  
4 that InfoSpan produced in this litigation that begins with Bates number  
5 INSPN00011461.

6           42.     Attached hereto as Exhibit 41 is a true and correct copy of a document  
7 that Emirates Bank produced in this litigation that begins with Bates number  
8 EM005287.

9           43.     Attached hereto as Exhibit 42 is a true and correct copy of a document  
10 that Emirates Bank produced in this litigation that begins with Bates number  
11 EM004591.

12           44.     Attached hereto as Exhibit 43 is a true and correct copy of a document  
13 that Emirates Bank produced in this litigation that begins with Bates number  
14 EM004660.

15           45.     Attached hereto as Exhibit 44 is a true and correct copy of a document  
16 that Emirates Bank produced in this litigation that begins with Bates number  
17 EM000973.

18           46.     Attached hereto as Exhibit 45 is a true and correct copy of a document  
19 that Emirates Bank produced in this litigation that begins with Bates number  
20 EM005016.

21           47.     Attached hereto as Exhibit 46 is a true and correct copy of a document  
22 that Emirates Bank produced in this litigation that begins with Bates number  
23 EM005755.

24           48.     Attached hereto as Exhibit 47 is a true and correct copy of a document  
25 that Emirates Bank produced in this litigation that begins with Bates number  
26 EM002639.

27           49.     Attached hereto as Exhibit 48 is a true and correct copy of a document  
28 that Emirates Bank produced in this litigation that begins with Bates number

1 EM006041.

2 50. Attached hereto as Exhibit 49 is a true and correct copy of a document  
3 produced by Emirates Bank in this litigation that begins with Bates number  
4 EM009082.

5 51. Attached hereto as Exhibit 50 is a true and correct copy of the SVC  
6 Agreement that was produced in this litigation and begins with Bates number starting  
7 EM006405.

8 52. I went to the website for Merriam-Webster's Dictionary, looked up the  
9 definition of "supplement" and printed out a copy on October 5, 2015. Attached  
10 hereto as Exhibit 51 is a true and correct copy of that printout.

11 53. I went to the website for the Oxford English Dictionary, looked up the  
12 definition of "supplement" and printed out a copy on September 30, 2015. Attached  
13 hereto as Exhibit 52 is a true and correct copy of that printout.

14 54. Attached hereto as Exhibit 53 is a true and correct copy of an email  
15 exchange between counsel for InfoSpan and counsel for Emirates Bank during the  
16 period September 17, 2015 to September 22, 2015.

17 55. Attached hereto as Exhibit 54 is a true and correct copy of a letter,  
18 dated July 21, 2014, from Emirates Bank's counsel to InfoSpan's counsel.

19 56. Attached hereto as Exhibit 55 is a true and correct copy of an email  
20 exchange between counsel for InfoSpan and counsel for Emirates Bank during the  
21 period September 17, 2015 to September 28, 2015.

22 57. Attached hereto as Exhibit 56 is a true and correct copy of a declaration  
23 signed by Plaintiff's expert Manuel Orozco, Ph.D, dated October 5, 2015.

24 I declare under penalty of perjury under the laws of the United States and the State  
25 of California that the foregoing is true and correct.

26 Executed this 5th day of October, in Santa Monica, CA.

27  
28 /s/ David L. Zifkin  
David L. Zifkin